

BILL LOCKYER, Attorney General
of the State of California
SAMUEL K. HAMMOND, State Bar No. 141135
Deputy Attorney General
California Department of Justice
110 West "A" Street, Suite 1100
San Diego, CA 92101

P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-2083
Facsimile: (619) 645-2061

Attorneys for Complainant

**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Petition to Revoke Probation
Against:

TAMARA RATTER, R.C.P.
2315 Tahoe Circle, #A
Hemet, CA 92545

Respiratory Care Practitioner
License No. 12224

Respondent.

Case No. R-1712

**PETITION TO REVOKE
PROBATION**

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Petition to Revoke Probation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about October 17, 1988, the Respiratory Care Board issued Respiratory Care Practitioner License No. 12224 to TAMARA RATTER, R.C.P. (Respondent). The Respiratory Care Practitioner License was in effect at all times relevant to the charges brought herein and will expire on April 30, 2006, unless renewed.

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3. In a disciplinary action entitled "In the Matter of Accusation Against Tamara Ratter," Case No. R-1712, the Respiratory Care Board, issued a decision, effective November 29, 2002, in which Respondent's Respiratory Care Practitioner License was revoked. However, the revocation was stayed and Respondent's license was placed on probation for a period of three (3) years with certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

JURISDICTION

4. This Petition to Revoke Probation is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 3710 of the Code states, in pertinent part:

“The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory Care Practice Act].”

6. Section 3718 of the Code states: “The board shall issue, deny, suspend, and revoke licenses to practice respiratory care as provided in this chapter.”

7. Section 3750 of the Code states, in pertinent part:

“The board may order the denial, suspension or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

“ . . .

“(g) Conviction of a violation of any of the provisions of this chapter or of any provision of Division 2 (commencing with Section 500), or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of this chapter or of any provision of Division 2 (commencing with Section 500).

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1 8. California Code of Regulations, title 16, section 1399.370, states, in
2 pertinent part:

3 "For the purposes of denial, suspension, or revocation of a license, a crime or act
4 shall be considered to be substantially related to the qualifications, functions or duties of a
5 respiratory care practitioner, if it evidences present or potential unfitness of a licensee to
6 perform the functions authorized by his or her license or in a manner inconsistent with the
7 public health, safety, or welfare. Such crimes or acts shall include but not be limited to
8 those involving the following:

9 "(a) Violating or attempting to violate, directly or indirectly, or assisting or abetting
10 the violation of or conspiring to violate any provision or term of the Act. . . "

11 **COST RECOVERY**

12 9. Section 3753.5, subdivision (a) of the Code states:

13 "In any order issued in resolution of a disciplinary proceeding before the board, the
14 board or the administrative law judge may direct any practitioner or applicant found to have committed
15 a violation or violations of law to pay to the board a sum not to exceed the costs of the investigation and
16 prosecution of the case."

17 10. Section 3753.7 of the Code states:

18 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall include
19 attorney general or other prosecuting attorney fees, expert witness fees, and other administrative, filing,
20 and service fees."

21 11. Section 3753.1 of the Code states, in pertinent part:

22 "(a) An administrative disciplinary decision imposing terms of probation may include,
23 among other things, a requirement that the licensee-probationer pay the monetary costs associated with
24 monitoring the probation."

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1 **FIRST CAUSE TO REVOKE PROBATION**

2 (Biological Fluid Testing)

3 12. At all times after the effective date of Respondent's probation, Condition 2
4 stated:

5 "Respondent, at her expense, shall participate in random testing, including,
6 but not limited to, biological fluid testing (i.e. urine, blood, saliva), breathalyzer,
7 hair follicle testing, or a drug screening program approved by the Board. Test costs
8 range from \$21.00 to \$200.00 each. The length of time shall be for the entire
9 probation period. The frequency and location of testing will be determined by the
10 Board.

11 "At all times, Respondent shall fully cooperate with the Board or any of its
12 representatives, and shall, when directed, submit to such tests and samples for the
13 detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled
14 substances.

15 "If Respondent is unable to provide a specimen in a reasonable amount of time
16 from the request, while at the work site, Respondent understands that any Board
17 representative may request from the supervisor, manager or director on duty to observe
18 Respondent in a manner that does not interrupt or jeopardize patient care in any manner
19 until such time Respondent provides a specimen acceptable to the Board.

20 "Failure to submit to testing or appear as requested by any Board
21 representative for testing, as directed shall constitute a violation of probation and shall
22 result in the filing of an accusation and/or a petition to revoke probation against
23 Respondent's respiratory care practitioner license."

24 13. Respondent's probation is subject to revocation because she failed to
25 comply with Probation Condition 2, in that Respondent failed to provide urine specimens for the
26 test dates: April 19, 2004, August 11, 2004, December 28, 2004, and July 8, 2005.

27 **SECOND CAUSE TO REVOKE PROBATION**

28 (Quarterly Reports)

14. At all times after the effective date of Respondent's probation, Condition 5
stated:

"Respondent shall file quarterly reports of compliance under penalty of
perjury, on forms to be provided to the probation monitor assigned by the Board.
Omission or falsification in any manner of any information on these reports shall
constitute a violation of probation and shall result in the filing of an accusation
and/or a petition to revoke probation against Respondent's respiratory care
practitioner license.

"Quarterly report forms will be provided by the Board. Respondent is
responsible for contacting the Board to obtain additional forms if needed. Quarterly
reports are due for each year of probation and the entire length of probation as

1 follows:

2 “For the period covering January 1st through March 31st, reports are to be
3 completed and submitted between April 1st and April 7th. For the period covering
4 April 1st through June 30th, reports are to be completed and submitted between July
5 1st and July 7th. For the period covering July 1st through September 30th, reports
are to be completed and submitted between October 1st and October 7th. For the
period covering October 1st through December 31st, reports are to be completed
and submitted between January 1st and January 7th.

6 “Failure to submit complete and timely reports shall constitute a violation of
7 probation.”

8 15. Respondent’s probation is subject to revocation because she failed to
9 comply with Probation Condition 5 in that Respondent failed to submit her Quarterly Report of
10 Compliance forms covering the period of April 1 through June 30, 2005 and due to the Board by
11 July 7, 2005 and the period covering July 1 through September 30, 2005, and due to the Board by
12 October 7, 2005.

13 **THIRD CAUSE TO REVOKE PROBATION**

14 (Probation Monitoring Program)

15 16. At all times after the effective date of Respondent’s probation, Condition 6
16 stated:

17 “Respondent shall comply with requirements of the Board appointed
18 probation monitoring program, and shall, upon reasonable request, report to or
appear to a local venue as directed.

19 “Respondent shall claim all certified mail issued by the Board, respond to
20 all notices of reasonable requests timely, and submit Annual Reports, Identification
Update reports or other reports similar in nature, as requested and directed by the
Board or its representative.

21 “Respondent is encouraged to contact the Board’s Probation Program at
22 any time she has a question or concern regarding her terms and conditions of
probation.

23 “Failure to appear for any scheduled meeting or examination, or cooperate
24 with the requirements of the program, including timely submission of requested
information, shall constitute a violation of probation and will result in the filing of
25 an accusation and/or a petition to revoke probation against Respondent’s respiratory
care practitioner license.”

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17. Respondent's probation is subject to revocation because she failed to comply with Probation Condition 6 in that Respondent failed to call the drug testing program's automated telephone system as required on the following call dates: April 3, 2004; May 2 & 22, 2004; June 19, 2004; August 18, 2004; September 17, 23, 25, 2004; October 2 - 9, 21, 30, 2004; November 3, 13, 20, 27, 28, 2004; December 20, 24 - 31, 2004; January 1 - 9, 13, 21, 2005; February 2, 26 - 28, 2005; March 1, 2, 4, 6, 8, 15, 17, 20, 21, 23, 27, 28, 30, 2005; April 12 & 15, 2005; May 13, 18, 19, 23, 27, 29, 30, 31, 2005; June 3, 4, 8, 12 - 15, 19, 24, 25, 28, 29, 2005; July 8, 12 - 31, 2005, August 3 - 31, 2005; September 1 - September 30, 2005; and October 1 - October 18, 2005.

FOURTH CAUSE TO REVOKE PROBATION

(Probation Monitoring Costs)

18. At all times after the effective date of Respondent's probation, Condition 7 stated:

“All costs incurred for probation monitoring during the entire probation shall be paid by the Respondent. The monthly cost may be adjusted as expenses are reduced or increased. Respondent’s failure to comply with all terms and conditions may also cause this amount to be increased.

“All payments for costs are to be sent directly to the Respiratory Care Board and must be received by the date(s) specified. (Periods of tolling will not toll the probation monitoring costs incurred.)

“If Respondent is unable to submit costs for any month, she shall be required instead to submit an explanation of why she is unable to submit the costs, and the date(s) she will be able to submit the costs including payment amount(s). Supporting documentation and evidence of why the Respondent is unable to make such payment(s) must accompany this submission.

“Respondent understands that failure to submit costs timely is a violation of probation and submission of evidence demonstrating financial hardship does not preclude the Board from pursuing further disciplinary action. However, Respondent understands providing evidence and supporting documentation of financial hardship may delay further disciplinary action.

“In addition to any other disciplinary action taken by the Board, an unrestricted license will not be issued at the end of the probationary period and the respiratory care practitioner license will not be renewed, until such time all probation monitoring costs have been paid.

“The filing of bankruptcy by Respondent shall not relieve the Respondent of her responsibility to reimburse the Board for costs incurred.

1 19. Respondent's probation is subject to revocation because she failed to
2 comply with Probation Condition 7 in that Respondent failed to pay her \$100 monthly probation
3 monitoring fee from April 29, 2004 through September 29, 2005, and is in arrears \$1,800.

4 **FIFTH CAUSE TO REVOKE PROBATION**

5 (Changes of Employment or Residence)

6 20. At all times after the effective date of Respondent's probation, Condition 10
7 stated:

8 "Respondent shall notify the Board, and appointed probation monitor, in
9 writing, of any and all changes of employment, location, and address within 14
10 days of such change. This includes, but is not limited to, applying for employment,
termination or resignation from employment, change in employment status, change
in supervisors, administrators or directors.

11 "Respondent shall also notify her probation monitor AND the Board IN
12 WRITING of any changes of residence or mailing address within 14 days. P.O.
Boxes are accepted for mailing purposes, however the Respondent must also
13 provide her physical residence address as well."

14 21. Respondent's probation is subject to revocation because she failed to
15 comply with Probation Condition 10, referenced above. The facts and circumstances regarding
16 this violation are as follows:

17 A. On or about July 13, 2005, the Board mailed by regular and
18 certified mail a letter to Respondent regarding her violations of probation. Both
19 letters were returned by the Post Office marked "Attempted Unknown."
20 Respondent has not notified the Board of her change of address.

21 B On or about August 4, 2005, the Board spoke to Ms. L.A.,
22 Manager of Respiratory Care Services at Hemet Valley Subacute where
23 Respondent had been employed. Ms. L.A. informed the Board that Respondent
24 resigned her position at the facility on July 25, 2005. Respondent has not notified
25 the Board of her change of employment.

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1 **PRAYER**

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

4 1. Revoking the probation that was granted by the Respiratory Care Board of
5 California in Case No. R-1712 and imposing the disciplinary order that was stayed thereby
6 revoking Respiratory Care Practitioner License No. 12224 issued to TAMARA RATTER,
7 R.C.P.;

8 2. Revoking or suspending Respiratory Care Practitioner License No. 12224,
9 issued to TAMARA RATTER, R.C.P.;

10 3. Ordering Tamara Ratter, R.C.P. to pay the Respiratory Care Board the
11 costs of the investigation and enforcement of this case, and if probation is continued or extended,
12 the costs of probation monitoring;

13 4. Taking such other and further action as deemed necessary and proper.

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15 DATED: October 20, 2005
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18 Original signed by Liane Zimmerman for:
19 STEPHANIE NUNEZ
20 Executive Officer
21 Respiratory Care Board of California
22 Department of Consumer Affairs
23 State of California
24 Complainant
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